IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5967 of 2007
Date of decision: November 26, 2007

Vinod Chaudhary

.....PETITIONER

VERSUS

Kulbir Singh and another

.....RESPONDENTS

CORAM: HON'BLE MR JUSTICE T.P.S.MANN

PRESENT: Mr Vikram Singh, Advocate
for the petitioner.

T.P.S .MANN, J.

Kulbir Singh and Jit Singh Chawla, who are owners of shop No. 3, Chaman Garden, Karnal filed petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter referred to as "the Act") seeking ejectment of Nand Kishor from the same on the ground that he had not paid the rent from 1.7.2002 to 30.6.2005, besides house tax and interest. Also that Nand Kishor had sub-let the premises to Vinod Chaudhary without their consent and permission and the latter was running a meat shop therein. The petition was accepted by learned Rent Controller, Karnal and an order of ejectment was passed on 4.10.2007. Strangely, Nand Kishor, the tenant did not challenge the said ejectment order, but only Vinod Chaudhary filed an appeal, which was dismissed by learned Appellate Authority, Karnal on 5.11.2007 on merits, as well as on the ground of maintainability. Hence, the present revision filed by Vinod

Chaudhary under Section 15 (6) of the Act.

The case of the petitioner is that the tenancy of his brother Nand Kishor came to an end in 1999, when said Nand Kishor vacated the demised shop. It was, thereafter, let out by the landlords to the petitioner. Therefore, there was no question of any sub-letting by Nand Kishor in his favour.

On the basis of a rent note dated 13.10.1998, which was executed in favour of Nand Kishor, the demised premises were let out for a period from 1.10.1998 to 30.9.2001. On the other hand, the petitioner has not been able to place on record any evidence that Nand Kishor had earlier vacated the demised shop in the year, 1999 or he himself had come into possession of the same as a tenant. Even during hearing of the present revision, learned counsel for the petitioner was asked to produce any evidence from which it could be inferred that the demised shop was on tenancy with him. In response thereto, certain money order slips were shown by which, according to the petitioner, the rent of the shop was sent by him to the landlords. The Court had the occasion to see those slips, but it was found that the landlords had not accepted the amount sent by the petitioner, which according to him, was by way of rent. Instead, they had specifically refused to accept the same.

After relying upon ***Stockman Boarding House*** vs ***Life Insurance Corporation of India***, 2000 (2) Rent Control Reporter-225, learned Appellate Authority held that the appeal filed before it by Vinod Chaudhary was not maintainable, as he was only a sub-tenant. Learned Appellate Authority was justified in coming to the said conclusion. Moreover, Vinod Chaudhary did not implead Nand Kishor as a party in the

said appeal. Even the present revision has been filed by Vinod Chaudhary alone and not by Nand Kishor. Said Nand Kishor has also not been impleaded as party. Under these circumstances, even the revision filed by the petitioner is not maintainable.

Once, it is clear that Nand Kishor had not tendered the rent for the relevant period and that he had sub-let the demised premises, a case was made out for his ejectment and also of his brother-Vinod Chaudhary, who was sitting in the premises as a sub-tenant.

There is no merit in the present revision, which is hereby dismissed. However, the petitioner is granted time to vacate the demised premises by January 31, 2008 and hand-over its vacant possession to the landlords i.e. the present respondents.

November 26, 2007 **(T.P.S.MANN)**
Pds **JUDGE**